

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2008-415-C - ORDER NO. 2009-257
APRIL 30, 2009

IN RE: Sandi Perry,)	ORDER GRANTING
Complainant/Petitioner)	MOTION TO STRIKE
)	REQUEST FOR CLASS
vs.)	CERTIFICATION
)	
BellSouth Telecommunications, Inc. d/b/a)	
AT&T South Carolina,)	
Defendant/Respondent.)	

This matter comes before the Public Service Commission of South Carolina (“Commission”) on the motion of BellSouth Telecommunications, Inc. d/b/a AT&T South Carolina (“AT&T”) to strike the request of Sandi Perry (“Perry”) for class certification.

Title 58 of the South Carolina Code, which governs all actions and proceedings brought before this Commission, contains no language expressly authorizing class actions to be brought here. In the recent case of *Anonymous Taxpayer v. South Carolina Dept. of Revenue*, 377 S.C. 425, 661 S.E.2d 73 (2008), the Supreme Court of South Carolina affirmed the decisions of the Circuit Court and the Administrative Law Court denying the taxpayer’s effort to have a class certified in the Administrative Law Court on the basis that there was no language in the Revenue Procedures Act authorizing class actions to be brought before that tribunal. Likewise, there is no language in Title 58 authorizing class actions to be brought before this Commission.

However, even assuming, *arguendo*, that class actions could be brought before us, it is clear that class certification would be inappropriate in this case. Perry is not able to meet any of the prerequisites to class certification contained in Rule 23(a), which are restated as follows:

- (1) the class is so numerous that joinder of all members is impracticable;
- (2) there are questions of law or fact common to the class;
- (3) the claims and defenses of the representative parties are typical of the claims and defenses of the class;
- (4) the representative parties will fairly and adequately protect the interests of the class; and
- (5) in cases in which the relief primarily sought is not injunctive or declaratory with respect to the class as a whole, the amount in controversy exceeds one hundred dollars for each member of the class.

S.C.R.C.P. 23(a). Perry has made no particularized allegations addressing any of these five prerequisites. Furthermore, to the extent that her pleading implies that she seeks certification of a class consisting of all AT&T customers who received \$50 promotional gift cards from the Company, it is clear on its face that the amount in controversy for each putative class member is less than \$100, and therefore does not satisfy the minimum amount in controversy per class member required pursuant to S.C.R.C.P. 23(a)(5).

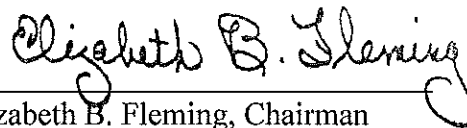
Accordingly, AT&T's motion to strike Perry's class certification request is granted.

APRIL 30, 2009

PAGE 3

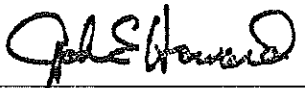
This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:



Elizabeth B. Fleming, Chairman

ATTEST:



John E. Howard, Vice Chairman

(SEAL)